

Thursday, September 4, 2008

Sami Al-Arian released to home detention.

Â Bill of RightsÂ (From public domain.)Â When Sami Al-Arian was terminated from his university professorship over six years ago (I am referenced in theÂ news release from the Foundation forÂ Individual Rights in Education)Â followingÂ threats of violence and donor pullouts to the University of South Florida, that was small potatoes compared to the five years of incarceration that followed with a subsequent indictment alleging his central role in terrorism.Â What did theÂ United States Justice Department have to show forÂ its six-month criminal trial in 2005Â that likely cost the prosecution millions of dollars?Â The jury refused to convict on most counts and hung on the remaining counts, followed byÂ a plea bargain to lesser chargesÂ of conspiring to aid theÂ Palestinian Islamic Jihad by helpingÂ get immigration relief for a relativeÂ allegedlyÂ linked to PIJ, and lying to a journalist concerning anotherÂ person's PIJ links.Â Not satisfied to rest on the plea disposition in the Florida federal court, federal prosecutors kept Mr. Al-Arian jailed after his prison release dateÂ by indicting him for refusing to testify under immunity to a grand jury. However, the catch-22 of giving such testimony is that a perjury prosecution can be instituted by the same prosecutors who call the immunized witness before the grand jury, and such a prosecution can go forward even if no lies were told as long as the presiding judge for the perjury prosecutionÂ finds probable cause to believe perjury took place. Â One of Mr. Al-Arian's legal team members is indefatigable bloggerÂ Jonathan Turley, who views the ongoing hounding of Mr. Al-Arian by the federal prosecutors as vindictive. To date, Professor Turley has not posted on the latest development this week in Mr. Al-Arian's case, so I will. For the first time in five years, Mr. Al-Arian is being released from jailÂ into home detention. This is no small feat, because too often courts permit immigration detention, which is the most recent jailing suffered by Mr. Al-Arian.Â In this instance, his lawyers have been arguing that the current contempt prosecution against Mr. Al-Arian violates his plea agreement in Florida court, whereby Mr. Al-Arian contends that he should be permitted to be deported without delay. Apparently, the federal judge in the pending contempt case in Alexandria, Virginia, federal court pressed the federal authorities to justify holding Mr. Al-Arian in immigration detention together with prosecuting him for contempt,Â rather than just deporting him. Â Home detention is no picnic, but is much more preferable than the five years Mr. Al-Arian spent jailed, never able to spend private time with his family. Moreover, this Washington Post report suggests that Mr. Al--Arian is being permitted some time on the streets, as well. Â Here are some relevant links to Mr. Al-Arian's case:Â The pending contempt indictment against Mr. Al-Arian for refusing to testify before the grand jury;Â the contempt prosecution court docket;Â Mr. Al-Arian's habeas corpus petition in Alexandria federal court;Â the fed's reply to the habeas petition;Â my 2006Â O'Reilly Factor interview opposing a retrial of Mr. Al-Arian; andÂ my previous blogposts on Mr. Al-Arian. Â Thanks to Mr. Al-Arian's current legal team of Jonathan Turley, William Olson,Â andÂ Philip Meitl. Thanks, also, to his criminal trial team of Linda Moreno and William Moffitt, who spent an entire six months of their lives with Mr. Al-Arian in his FloridaÂ terrorism trial. Jon Katz

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